



## MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m., by Chairperson Sacks, followed by the Pledge of Allegiance.

## ROLL CALL

Present: COMMISSIONERS Bogue, Fraas, Halliday, McKillop, Peixoto, Thnay  
CHAIRPERSON Sacks  
Absent: COMMISSIONER Zermeño

Staff Members Present: Anderly, Conneely, Camire, Lens, Pearson, Reyes

General Public Present: Approximately 35

## PUBLIC COMMENT

Chairperson Sacks thanked Commissioner Zermeño, previous chair, and welcomed new commissioner Marvin Peixoto.

## PUBLIC HEARING

1. Zone Change No. PL-2004-0246 – Gary R. Hansen (Applicant) / Walpert Association For The Retarded (Owner) – Request to Change the Zoning From Medium-Density Residential to Planned Development District to Construct and Operate a Group Home Complex – The Project is Located at 1101 Walpert Street

Staff report submitted by Associate Planner Camire, dated July 8, 2004, was filed.

Planning Commissioner Bogue stated for the record that the Fair Political Practices Commission requires him to disclose that as a Council candidate he had received contributions from an agent associated with the applicant and has returned all contributions in excess of \$250 as required by law and therefore could participate in the deliberations of this project.

Associate Planner Camire reported that the applicant, Gary Hansen, was not present, but would be represented by Darrell Leamon. She presented the project, Emerald Glen Group Home, a five-unit group home on a 2.5 acre vacant lot behind Walpert Center that will serve and eventually accommodate up to 45 adults. Walpert Center is an educational center that also provides work programs. She noted that the units will be built in a park-like, slightly sloped setting and will be operated separately from the Walpert Center and owned and operated by Amerald Glen, a non-profit. This property, in an area consisting of mainly multiple-family residential, is medium density and will be developed at a density lower to what is allowed. The proposed stucco homes are 3,400 square feet with six bedrooms and will be staffed on a 24-hour

basis. There will be an arbor over patio and the windows are designed to take advantage of the view of Ward Creek. She displayed the elevations that comply with the design guidelines, as conditioned. She reported that due to financial constraints, the applicant will be building in phases; two homes first. Staff is asking for amenities in the common area such as benches, picnic tables and barbeque facilities. There are 15 live oaks on the property and the developer has asked to remove one. Staff is recommending it remain with the relocation of Unit 4. There is also a lot line adjustment required. Staff is recommending that the Planning Commission recommend to the City Council approval of the negative declaration, the addendum to the negative declaration, zone change to a planned development district, which would allow the construction and operation of the group home complex and recommend approval of the preliminary development plan, subject to the findings and conditions of approval.

Planning Commissioner Peixoto expressed his concern for the safety of school-age children as they walk to school during the construction as the streets are narrow. During construction there could be times when youth would have to walk on the street. Associate Planner Camire stated that the conditions of approval do not include sidewalk construction at this time, but sidewalks will be constructed in the future.

Planning Commissioner Peixoto was also concerned about vehicle exhaust toxics into Ward Creek after the pavement is completed and a drainage system is installed. Staff responded that State regulations require that the water run through the landscaped area prior to draining into the Creek. Development Review Services Engineer Gaber described the technicalities of this process.

Planning Commissioner McKillop discussed the possibility of retaining the one oak tree that will be removed as part of the project until absolutely necessary as the project completion date is in 2011. Associate Planner Camire stated that the conditions of approval could be amended to accommodate that.

Chairperson Sacks opened the public hearing at 7:51 p.m.

Darrell Leamon spoke on behalf of the applicant. He thanked staff for its cooperation.

Jean Rolf, Castro Valley, introduced two future residents of this project. She described the history of The Walpert Association for the Retarded, as a group of parents that started the organization over 52 years ago. She commended the many Hayward residents and service clubs that helped throughout the years to assist Walpert Center.

Larry Mathers described his involvement in the project. He gave a brief background on Serra Center, a previous development in Fremont. He told how Serra Center was sold leaving residents without homes. The residents sued and were monetarily awarded. As a result of this award, a number of families have contributed towards development of the group home project. There is substantial legal and financial support to see this project through.

Jill Williams, Principal, KTG Group, Inc. stated that she has only recently been involved with the project. Her group designed this community with living spaces that are of a simple design, which are inviting and usable. In light of several project challenges, including the grading required, there is an outside common area. The units have visual contact with each other and

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have easy accessibility. Ms. Williams noted that the living units are oriented toward Ward Creek to provide environmental enhancements.

Planning Commissioner Thnay asked her to explain the balance of convenience, recreation and safety. Ms. Williams responded that her group is working with City staff to insure safety and protection of the residents such as working with the Fire Department to alarm the exit doors and perhaps installing a fence at the top of the slope. In addition, the units will be built closer in grade to each other so residents can have access to better pedestrian transportation. She assured the Commission that there are still considerations being resolved to address all concerns.

Don Lapidus, Project Manager of Terra Pacific, thanked City staff for assisting in this project. He noted that revised Public Works Department conditions were presented just prior to this meeting. He referred to the staff report on Page 4 regarding the parking lot repair and the required landscaping. He detailed a lot line adjustment that excluded the Walpert Center from the project. He felt that it was an error in procedure to submit this development prior to the lot line adjustment. He stated that Walpert Center has agreed to repair, re-stripe and repave with slurry seal the parking lot, but the landscaping is enormously expensive and not affordable. He requested that several conditions that apply to the Walpert Center property at this time be eliminated, in particular Condition #17. He noted that Walpert Center has donated the property site to the Emerald Glen and does not have the financial means at this time to improve the parking lot.

Planning Commissioner McKillop asked if all the pads would be poured at the same time and if those not built immediately on would be affected over time.

It was reported by Mr. Leamon that all of the grading and pouring would take place at the same time and there would be no effect. He also urged approval of the project.

Chairperson Sacks closed the public hearing at 8:12 p.m.

Planning Commissioner Thnay asked staff about Condition of Approval #17. He expressed concern that there are expensive upfront costs. He suggested that after the first two pads are built, the slurry seal could be done on the parking lot, and then the condition that requires the parking and loading areas to be screened from the street could be completed. After that the code requirements could be completed, including the landscape improvements. This phasing would help ease the financial strain.

Principal Planner Patenaude explained that functionally the two properties work together. The access to the Emerald Glen community homes is through the Walpert Center property and the Walpert Center entrance is not developed according to today's City standards. It will be necessary to provide findings that offset the elimination of this condition referencing functional amenities to the property. Emerald Glen development is a planned development that includes Walpert Center.

Planning Commissioner Fraas made a motion, seconded by Planning Commissioner McKillop, to approve the staff recommendations and that the Planning Commission recommend these to the City Council as follows: approve the Negative Declaration and the addendum to the Negative Declaration, approve a zone change to Planned Development (PD) District, and Preliminary Development Plan, subject to the findings and conditions of approval.

Planning Commissioner McKillop expressed her concerns for Condition #17. She acknowledged the expense of the improvements, but indicated that she drives past this property daily and that frontage along Walpert Center is substandard and definitely needs improvement. She commented on the graffiti issue. She was willing to accept the tree removal and would like to see the pads graded.

Planning Commissioner Thnay agreed that this is a worthwhile and great project. He acknowledged the needs of a non-profit and the burdensomeness to comply. He asked that the maker of the motion modify her motion to phase the requirements of Conditions of Approval #17 so that Walpert Center can accommodate the expense. There was no second to the friendly amendment.

Planning Commissioner Fraas stated that Condition #17 already provides a two year completion date. She felt that it was worthwhile for Walpert Center to improve itself as the project is developed. She discussed CDBG funding and felt that the Center could qualify for this type of special funding.

There was discussion on what would be included in the phasing. The slurry sealing could be done initially, the screening of the parking lot and loading area could be next. There was also discussion on the two year timeline. It was noted that this was for the growth success of the required landscaping and shrubbery that would include the tree wells.

Planning Commissioner Bogue expressed concern that by phasing with the slurry seal first, the parking lot would need to be cut at a later date for water drainage and tree wells.

At the request of Planning Commissioner McKillop, Planning Commission Chairperson Sacks re-opened the public hearing 8:25 p.m., in order to hear from the applicant.

Mr. Leamon discussed the funding and noted the merge of Walpert Center with Emerald Glen reiterating that the land is a gift to Emerald Glen from Walpert Center. He emphasized financial need and any phasing would be appreciated. He was willing to work with staff. Phasing will help at this time as the Center looks for other funding resources.

Planning Commissioner McKillop would agree to the phasing, but felt strongly that the frontage of the Walpert Center improvements be part of the first phase.

Planning Commission Chairperson Sacks closed the public hearing 8:28 p.m.

Planning Commissioner McKillop offered a friendly amendment to the motion made by Planning Commissioner Fraas that she seconded. The amendment would be that Condition #17 be phased in with the particular improvements to the frontage along the Walpert Street to be addressed first. She added that parking lot improvements be phased in over the course of construction of the units as to be determined by staff.



Planning Commissioner Fraas accepted the friendly amendment.

The motion **carried** by the following vote with the friendly amendment that Condition #17 be phased in as directed to staff:

AYES:	COMMISSIONERS Fraas, McKillop, Bogue, Thnay, Peixoto CHAIRPERSON Sacks
NOES:	COMMISSIONERS None
ABSENT:	COMMISSIONERS Zermefio
ABSTAIN:	COMMISSIONERS None

2. Use Permit No. PL-2004-0272 – Matthew Hamlet (Applicant) / Eden Properties (Owner) – Request to Operate a Tattoo and Piercing Parlor – The Project is Located at 22622 Mission Boulevard

Staff report submitted by Associate Planner Camire, dated July 8, 2004, was filed.

Associate Planner Camire presented the report depicting the second floor office where the Russell Ally Tattoo will be located above the Eden Jewelry and Loan business. The shop will have a reception gallery area with portfolios by the artists. She reported that there will be two piercing rooms and four tattoo rooms. She noted that the owner has 10 years of experience in San Francisco and Oakland tattoo establishments. She noted that the Police Department has inserted conditions of approval including secure lockers or locked cabinets for customers to utilize during their services. She noted that this does conform to the Core Area Plan and recommended approval of the use permit. In addition, the tattoo artists have at least 10 years experience and the piercers each have at least 3 years experience.

Planning Commission Chairperson Sacks asked for clarification of Conditions #6 and 7. She was assured that no one under the age of 18 is permitted on the premises. She asked what this section of the California Penal Code entailed.

In response to Planning Commissioner Thnay's question, staff reported that there are currently three tattoo operations in the city.

Planning Commission Chairperson Sacks opened the public hearing at 8:38 p.m.

Matthew Hamlet, applicant, thanked staff for assisting him in the process and thanked the Planning Commission for reviewing his application. He stated that he worked through college as a tattoo artist and received a degree in architecture. He did not agree with any negative connotations that accompanies this type of business and hopes that his business could promote this type of art. He is trying to organize a tattoo convention as a fund raiser at Centennial Hall with proceeds that will be for children with cancer. He is also interested in forming art classes.

He will call his business Russell City Tattoos as an awareness of Hayward's history. He urged approval. He was not familiar of the cited Penal Code section included in the Conditions of Approval.

Planning Commission Chairperson Sacks closed the public hearing at 8:41 p.m.

Planning Commissioner Thnay stated that he has voted in favor of tattoo parlors in the past, but he emphasized that the downtown lives and dies by its reputation. The downtown should be a destination point that is family-oriented and pedestrian friendly. Larger cities with larger downtowns could accommodate this type of business, but this is not the right 'spot.'

Commissioner Bogue indicated that he usually votes against tattoo parlors, but this is an office space that is hard to rent due to building codes to meet American with Disabilities Standards and its configuration. This is an appropriate use for this reinforced building. He commented that this business is in the heart of Hayward, and not anywhere near Russell City.

Planning Commissioner McKillop did not agree that this is negative for the downtown nor that it has bad connotations, but rather that this is a form of art. She would support the motion and welcomed the tenant to the downtown.

Planning Commissioner Bogue stated that he was willing to accept the Penal Code section reference in the condition of approval even though staff did not readily have it. He would support and trusted the police department requirement.

City Clerk Reyes reiterated the Penal Code Section and explained that one condition of approval requires an actual posting of a sign at the entrance of the building forbidding youth under the age of 18 years to enter the premises. The next condition of approval requires the actual text of Penal Code Section to be 653 PL to be posted within the premises where the actual tattooing will occur.

Planning Commissioner Bogue moved, seconded by Planning Commissioner McKillop, to find the proposed project categorically exempt from CEQA and approve the application for Use Permit No. PL-2004-0272, subject to the findings and conditions of approval.

Planning Commissioner Fraas stated that a tattoo parlor was not in her vision for downtown Hayward, but felt that the staff and her colleagues convinced her that this is a good use for this building. She felt that this would add to the downtown area and she supported the motion.

Planning Commission Chairperson Sacks commented that many people still hold that past stigma. She now regards this as body art. She would not tolerate any negatives involved with this establishment.

The motion **carried** by the following roll call vote:

AYES:	COMMISSIONERS Fraas, McKillop, Bogue, Peixoto
	CHAIRPERSON Sacks
NOES:	COMMISSIONER Thnay
ABSENT:	COMMISSIONER Zermefio
ABSTAIN:	COMMISSIONER None

## MINUTES



## REGULAR MEETING OF THE PLANNING COMMISSION, CITY OF HAYWARD Council Chambers Thursday, July 8, 2004, 7:30 P.M. 777 "B" Street, Hayward, CA 94541

3. Zone Change No. PL-2003-0533 and Vesting Tentative Tract Map 7470/PL-2003-0534 – Trumark Companies (Applicant) / The Domoto Family Partner LP (Owner) – Request to Change the Zoning From Agricultural District to Planned Development District and Subdivide 5 Acres to Build 46 Homes – The Project is Located at 26521 Whitman Street (former Domoto Nursery)

Planning Commissioner Bogue stated for the record that the Fair Political Practices Commission requires him to disclose that as a Council candidate he had received contributions from an agent associated with the applicant and has returned all contributions as required by law and therefore could participate in the deliberations of this project.

Staff report submitted by Associate Planner Pearson, AICP and Development Review Engineer Gaber, P.E., dated July 8, 2004, was filed.

Associate Planner Pearson presented the report, describing the elevations, highlighting the merits of the project, and staff's request to eliminate Lot #41 from the project. He noted the applicant's efforts to respond to the concerns of the neighborhood.

Planning Commissioner Bogue asked for further clarification on how the elimination of Lot #41 could allow additional yardage and parking as there is only one curb-cut. Staff responded that the two homes could be re-oriented to have separate driveways to the main public street and enlarge the parking bay.

It was noted and disclosed by the six Planning Commissioners present that they each met with Mr. Sakai and Mr. Davenport prior to this meeting.

The public hearing opened at 9:02 p.m.

Chris Davenport of Trumark Companies presented the Whitman Village, a development of the remaining five acres of the Domoto Nursery. He thanked staff for the excellent working relationship. He also worked with the Vice-Chair of the Whitman-Mocine Neighborhood Task Force to ensure that the project complies with the standards of the Whitman-Mocine Neighborhood Plan.

The project is a diverse housing type that meets housing needs of a larger community profile by offering a variety of housing types and prices. This project preserved 37 trees that will provide a buffer and transitions between units. He described the four housing types and the community benefits of the project and noted that a homeowners association will provide landscape maintenance and community preservation. This project completes Mahogany Street and will assist in accommodating traffic circulation and the fire department by providing a secondary egress.

He enumerated the financial benefits from fees as well as benefits to the community by improving the Whitman Street streetscape and facing homes to the street with garages in the rear of the homes. Of the 86 Conditions of Approval, he explained that Condition #9 (l) calling for the removal of home site Lot #41 is of immediate concern. He pointed out how staff concerns have been met without eliminating this home. He listed the mitigations to keep this home. The developer has blocked the view of the garage doors from the Whitman Street entrance with enhanced architecture and the placement of Lot 42. There will be seven yard and street trees planted to disrupt the line of sight and the visual impacts of the garage door and the driveway.

The three homes are integrated to minimize the driveway area as well as the number of curb cuts to the public street. In addition, the concrete for the driveway will be an earth tone color that will also enhance the driveway and calm the appearance of the driveway. He urged approval with the removal of this condition of approval.

He responded to questions related to the use of exposed aggregate in the individual driveways area and the lot line. In response to diversity in housing, he described the various housing types that have a substantial price difference. He also explained the intent of the developer to include pre-run line sets and disconnects for the option to the potential buyer of air conditioning.

Lucille Stanke, a neighbor to the project site, appreciated working with Planning Associate Pearson and the developer. She was satisfied with the revision to the windows in order to preserve her privacy. She did express concern that the inclusion of seven parking spaces on Whitman Street is not mitigation.

Robert Sakai stated that he was a resident of Hayward and was also a member of the Whitman-Mocine Neighborhood Task Force that worked on the neighborhood plan. He reported that he represents the Domoto family. He noted that one of the objectives of the plan was to have an attractive frontage on Whitman and to have zero-lot line, single-family, detached homes on a planned development project. He felt that the developer, Trumark Companies, has answered those recommendations on a long and narrow property. He applauded Trumark for its creativity in the design and the preservation of the heritage trees. He urged approval of this project.

Gary Craig, Huntwood Avenue, described his recent experience in his search for a new home and noted that he was informed that he and his wife are 3,874<sup>th</sup> on the list to purchase a home in the Eden Shores development. He felt that this project addresses the current housing crisis and urged the Commission to recommend its approval.

Planning Commission Chair Sacks closed the public hearing at 9:23 p.m.

Planning Commissioner Thnay expressed his approval of the placement of garages on this project. He had previously reviewed the old plan of the project that included 50 units and now the plan totals 46 homes. He commended planning staff and the applicant for working together to make this project work. In regards to Condition Lot 41, he agreed that the applicant should utilize earth tones to shield the garage from being seen when entering from the street. He also suggested that the trees near Lot 41 be of a different species; a type which could grow a larger canopy to provide a softer effect. He also recommended that, "Not a Through Street," signs be placed on several short streets to avoid additional unrelated through traffic.



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Planning Commissioner Thnay moved the staff recommendation with removal of Condition of Approval 9 (l). His motion was seconded by Planning Commissioner McKillop.

Planning Commissioner Bogue recommended a friendly amendment to the motion to which both the maker of the motion and the second agreed. His amendment requires that the units be constructed with the necessary infrastructure for the option of air conditioning and that the condenser be in a private yard space.

Planning Commissioner Peixoto asked if this amendment will generate additional costs to the developer. Discussion ensued. It was noted that this was the intention of the applicant, but this could make that certain.

Planning Commissioner McKillop commended the developer on the design and in particular on the preservation of trees.

Planning Commissioner Peixoto stated his reasons for favoring the project including the attention to details. He drove through a similar project in San Leandro and was impressed with the project, such as the 10-mile per hour limit. He listed several of the excellent amenities, and said it was an attractive development. He stated that the comments made by Gary Craig solidified his decision. This project is a bridge from townhouses to single-family homes. He emphasized that this is an economic value because it provides a product that keeps residents in Hayward rather than leaving to purchase homes in the valley. He also mentioned the economic benefit of the fees to the school and park districts.

Chair Sacks stated that the City Council is the next step for this project and the vote is a recommendation to it.

Planning Commissioner Thnay moved to recommend the following, seconded by Planning Commissioner McKillop: Adopt the Initial Study, Mitigated Negative Declaration, and Mitigation Monitoring Plan in accordance with CEQA; and approve the Zone Change and the Preliminary Development Plan subject to the findings and conditions; and approve the Vesting Tentative Tract Map application subject to the findings and conditions, with the removal of Condition of Approval 9 (l) to maintain Lot 41 and the additional condition recurring units to be constructed with the infrastructure necessary for air conditioning and that the units be placed in the private yard. The motion **carried** by the following vote:

AYES:	COMMISSIONERS Fraas, McKillop, Bogue, Thnay, Peixoto
	CHAIRPERSON Sacks
NOES:	COMMISSIONERS None
ABSENT:	COMMISSIONERS Zermeno
ABSTAIN:	COMMISSIONERS None

## ADDITIONAL MATTERS

**DRAFT**

There were no matters from staff; however, Planning Manager Anderly reported that she has been informed that three members will not be present for the July 29<sup>th</sup> meeting. She stressed the important of having the remaining four present at that meeting.

Planning Commissioner Bogue reminded all of the Russell City Blues Festival in the Plaza this weekend. He also noted that next Thursday is the Downtown Street Party on B Street. Additionally, he noted that the Levitz Store on La Playa Drive near the Sears sector of the Southland Mall has extensive weeds. In addition, Burlington Coat Factory has made some improvement by cutting back shrubs so shoppers can walk on the sidewalk, yet the rest of the property has all of the landscaping removed and has lots of weeds.

Planning Commissioner Fraas lives in the College Heights area and noted the signage recently placed by HARD regarding the maintenance of that park. She recalled the recent development that was approved due to the open space of the nearby park and that its approval generated park fees. She asked if staff knew the standards for maintenance and expressed concern that the park maintenance will decrease.

Planning Manager Anderly informed the Commission that the Park Dedication Fees were established by the Quimby Act and funds are restricted to purchasing new property or new equipment and cannot be used for maintenance. She continued that due to budget impacts, standards have been established by HARD to at least maintain plant root structure until there are better financial times.

In response Planning Commissioner Fraas was concerned that private citizens must now be accountable for removing garbage and graffiti removal for a public park yet have no control over who uses it. She intends to contact HARD on this matter and would report what she learns.

Planning Commissioner Bogue reminded all that we cannot forget that the State has taken HARD's monies away and the measures taken will save the plantings for future.

Chair Sacks noted a property apartment complex on the east side of Whitman or Huntwood, but north of Tennyson is in need of community preservation. She also reminded Planning Commissioner Thnay that she will be on vacation and that he will need to be "Chair" until she returns in mid-September.

## **APPROVAL OF MINUTES**

The Minutes from June 24, 2004, were approved.

## **ADJOURNMENT**

The meeting was adjourned by Chairperson Sacks at 9:46 p.m.

## **APPROVED:**

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Christopher Thnay, Secretary

**MINUTES**



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COMMISSION, CITY OF HAYWARD  
Council Chambers  
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Planning Commission

ATTEST:

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Angelina Reyes  
City Clerk